

**BOROUGH OF CHURCHILL**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE BOROUGH OF CHURCHILL, ALLEGHENY COUNTY, PENNSYLVANIA ESTABLISHING A TREE COMMITTEE, SETTING FORTH THE NUMBER AND QUALIFICATIONS OF COMMITTEE MEMBERS, OUTLINING THE RESPONSIBILITIES OF THE COMMITTEE, ESTABLISHING A PERMITTING PROCESS FOR TREE ACTIVITIES AND ESTABLISHING PENALTIES FOR VIOLATIONS**

WHEREAS, Churchill Borough has a rich variety of trees throughout the Borough, which has enhanced the aesthetic value of its neighborhoods for many years; and

WHEREAS, it is the goal of Churchill Borough Council to establish a Tree Committee to educate the community as to the benefits of maintaining and enhancing the trees of the Borough; monitor the status of trees throughout the public spaces, rights-of-way, streets, public playgrounds, highways and parks located within the Borough; advise the Borough Manager and Borough Council as to improvements, violations and corrections appropriate to maintain safe vehicle and pedestrian access through the Borough while assuring the environmental benefits of a vibrant tree population; and preserve the trees of the Borough; and

WHEREAS, the Churchill Borough Council deems it appropriate and useful to have the advice of concerned and knowledgeable citizens regarding the best way to achieve these goals and to preserve the stock of shade trees within the Borough.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE BOROUGH OF CHURCHILL, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, THAT THE CHURCHILL BOROUGH CODE IS HEREBY AMENDED AS FOLLOWS:**

**Section 1.** Chapter 286 of the Churchill Borough Code is amended to include Article II, entitled "Churchill Tree Committee," as follows:

## **Article II Borough of Churchill Tree Committee**

### **§ 286-5 Borough of Churchill Tree Committee.**

I. The Borough Council of the Borough of Churchill may create a Tree Committee to be composed of not less than 3 and not more than 5 members. Each member will be appointed by Borough Council for a term of 3 years. Members will serve on a voluntary basis at the pleasure of Council and any member of the Tree Committee may be removed prior to the expiration of his or her appointed term for any reason. Efforts shall be made by Council to have one or more members of the Tree Committee with a horticultural background so as to provide helpful and accurate guidance to the Committee and the community at large. Members of the Tree Committee may be appointed for consecutive terms at the discretion of Council.

II. The goal of the Tree Committee shall be to; (a) advise the Borough in the maintenance and enhancement the tree population of the Borough's public spaces, rights-of-way, streets, public playgrounds, highways and parks located within the Borough and (b) to establish an educational program regarding the value of trees to the community's environment and property values.

III. Findings and recommendations of the Tree Committee shall be reported to Borough Council on a quarterly basis for the purpose of taking into consideration and acting upon such recommendations and proper enforcement of ongoing violations.

### **§ 286-6 Tree Permitting**

I. Any individual or entity must apply for and obtain a permit from the Borough Manager before  
1) removing, trimming, pruning or otherwise altering a tree located within the public right-of-way;  
or 2) planting a tree within the public right-of-way. Any construction activities involving the removal or alteration of a tree or trees located within the public right-of-way shall require a permit as described in this Section, and may require the appropriate replacement of trees as a condition of permit approval. No invasive, destructive or diseased tree species shall be permitted to be planted in the public right-of-way. Activities within the public right-of-way which damage tree root systems are prohibited.

II. The Borough Manager shall not issue a permit authorizing removal of a tree from a public right-of-way unless 1) the tree constitutes a potential hazard to life and/or property, 2) the tree constitutes a potential threat to the uninterrupted service of public utilities within the Borough 3) the tree constitutes a public nuisance or 4) the removal of the tree is consistent with a change or revision in the planting plans for Borough trees. Trees considered to be an immediate or imminent hazard to life and/or property, including trees overhanging the traveled portion of a public right-of-way, and trees overhanging or encroaching upon facilities of a public utility, shall be subject to immediate corrective action by the Borough with costs assessed against the property owner.

III. All removal and corrective activities affecting trees within public rights-of-way shall be performed by a duly licensed and bonded tree service. The tree service, prior to initiating any activity, shall provide evidence of active workers' compensation insurance as well as public liability insurance and property damage insurance as follows:

(1) Public liability insurance in the amount of \$500,000 for injuries, including accidental death to any one person and subject to the same limit for each person in the amount of not less than \$1,000,000 on account of one accident.

(2) Property damage insurance in an amount of not less than \$100,000 to any one property and subject to the same limit for each property in an amount of not less than \$500,000 aggregate for one accident.

No tree work shall be permitted until the property owner or tree service conducting the work has provided insurance certificates showing the required minimum coverage.

#### **§ 286-7 Trees Overhanging Streets**

No person, firm or corporation shall plant or allow to grow any trees, shrubs or other vegetation encroaching above or into the traveled portion of any public rights-of-way, streets or highways, unless the same shall have an adequate clearance, wet or dry, to permit pedestrian and/or vehicular traffic and unless the trees, shrubs or other vegetation do not obstruct sight lines or otherwise create a hazardous condition. The Borough Manager and/or Borough Council, with consultation from the Tree Committee and the Department of Public Works, if necessary, shall determine any violation of this section and shall notify all responsible parties of the clearance or trimming activities required to abate the violation. Any person, firm or corporation failing to abate a violation within 10 days of receiving a notice of violation under this section, shall be subject to the penalties described in section 286-8 of this Code.

#### **§ 286-8 Penalties**

I. Any person, firm or corporation violating any of the provisions of this Article shall, upon conviction thereof, be subject to a fine of not more than \$600, plus costs of prosecution, and in default of payment of such fine and costs shall be subject to imprisonment for not more than 30 days for any single violation of this article, or the Borough may elect to collect such judgments and costs by execution or other process as provided by law. Each day that a violation continues shall be considered a separate offense.

II. In lieu of or in addition to the penalty hereinabove provided, the Borough of Churchill, at its option, may require the person injuring, removing or failing to remove any trees, shrubs or other vegetation in violation of this article to replace or remove the trees, shrubs or other vegetation, or correct the damage caused. In the event of a default, the Borough of Churchill may replace, remove or correct any such trees or condition, with all costs incurred by the Borough of Churchill to be collected by suit in assumpsit or the filing of lien as provided by law.

III. Where a tree, shrub or other vegetation creates an immediate health and safety hazard to the public in the reasonable determination of the Borough, the Borough may remove the tree, shrub or other vegetation without notice with all costs incurred by the Borough to be collected by suit in assumpsit or the filing of lien as provided by law.

#### § 286-9 **Definitions**

**Committee:** The duly appointed members of the Tree Committee of the Borough of Churchill.

**Public Right-of-Way:** The area of any public street, road, highway or other publicly held thoroughfare that has been designated by law for public use as a right-of-way.

**Street:** Any public street, avenue, road, drive, circle, square, alley, way, highway, sidewalk or other public place located in the Borough, as established within the ordained rights-of-way.

**Tree:** When used by itself, any woody plant which generally includes those having a single main stem which grows to a mature height of over ten (10) feet.

#### Section 2. Repealer

As of the effective date of this Ordinance, all ordinances currently in existence are repealed to the extent that such ordinances are inconsistent with the provisions of this Ordinance; provided however, that such ordinances shall remain in full force and effect to the extent that they are not inconsistent with the provisions of this Ordinance.

#### Section 3. Severability

If a final decision of a court of competent jurisdiction holds any provision of this Ordinance or the application of any provision of this Ordinance to any circumstance to be illegal or unconstitutional, the other provisions of this Ordinance and the application of such provisions to other circumstances shall remain in full force and effect.

Section 4. Effective Date

The provisions of this Ordinance shall become effective upon adoption by the Council of the Borough of Churchill.

**ORDAINED AND ENACTED** into law this \_\_\_\_ day of \_\_\_\_\_, 2019.

ATTEST:

BOROUGH OF CHURCHILL

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\_\_\_\_\_  
President of Council

**EXAMINED AND APPROVED** this date \_\_\_\_\_.

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Mayor